

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NOS.)	PRELIMINARY ORDER DENYING
45-7567 & 45-7588 IN THE NAME)	APPLICATIONS FOR AMENDMENT
OF SOUTHWEST IRRIGATION)	
<u>DISTRICT</u>)	

This matter having come before the Department of Water Resources (Department) as a result of Applications for Amendment of Permit Nos. 45-7567 and 45-7588, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On February 20, 1997, Southwest Irrigation District (permit holder) applied to the Department for amendment of permits 45-7567 and 45-7588 to change the season of use of the permits. Permit 45-7567 was issued with a season of use of March 1 through July 10, and Permit 45-7688 was issued with a season of use of February 1 through May 31. The permit holder indicated on the applications that the permitted season of use was too restrictive.
2. On May 24, 2004, Department staff sent the permit holder a letter stating that the Department could not act upon the applications for amendment until the permit holder submitted strong evidence that the change in season of use would not injure senior water rights. The Department also requested withdrawal of the applications if the permit holder was no longer interested in pursuit of the change in season of use.
3. On July 21, 2004, the permit holders submitted applications for amendment, for licensing purposes, of the permits that did not include the requested change in season of use.
4. On September 7, 2004, Department staff sent the permit holder additional correspondence requesting that the applicant either submit strong evidence that the season of use change would not injure senior water rights or withdraw the amendment applications that requested the change in season of use. Additionally, the Department advised the permit holders if the 1997 amendment applications were not withdrawn the Department would deny the applications.
5. As of this date the applicant has not submitted strong evidence that the change in season of use would not injure senior right holders and has not withdrawn the 1997 amendment applications.
6. Idaho Code, § 42-211, provides that the director of the Department may deny an application for amendment of a permit if he determines the change would adversely affect the rights of others.

CONCLUSIONS OF LAW

1. The permit holders did not submit any evidence that the applications would not adversely affect the rights of others as set forth in §42-211, Idaho Code.
2. The Department should deny the applications for amendment of the permits as provided in Idaho Code, § 42-211.

ORDER

IT IS, HEREBY ORDERED that the applications for amendment of Permits 45-7567 and 45-7588 which requested a change in the season of use of the permits in 1997, should be DENIED as provided in Idaho Code, § 42-211.

Dated this 27th day of December, 2004.



GARY SPACKMAN